

AMENDED IN ASSEMBLY JANUARY 6, 2014

AMENDED IN ASSEMBLY MARCH 19, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 778

Introduced by Assembly Member Bocanegra

February 21, 2013

~~An act to add Section 55.5 to the Labor Code, relating to employment.~~
An act to amend Section 3505.4 of the Government Code, relating to local public employee organizations.

LEGISLATIVE COUNSEL'S DIGEST

AB 778, as amended, Bocanegra. ~~Employment: workforce and demographic changes: study.~~ *Local public employee organizations: dispute: factfinding panel.*

Existing law requires the governing body of a local public agency, or those boards, commissions, administrative officers, or other representatives as may be properly designated by law or by a governing body, to meet and confer in good faith regarding wages, hours, and other terms and conditions of employment with representatives of recognized employee organizations. Existing law authorizes an employee organization to request that the parties' differences be submitted to a factfinding panel not sooner than 30 days or more than 45 days following the appointment or selection of a mediator pursuant to the parties' agreement to mediate or a mediation process required by a public agency's local rules. Existing law authorizes an employee organization, if the dispute was not submitted to mediation, to request that the parties' differences be submitted to a factfinding panel not later than 30 days

following the date that either party provided the other with a written notice of a declaration of impasse.

This bill would require that request to be in writing. The bill would provide that if either party disputes that a genuine impasse, as defined, has been reached, the issue of whether an impasse exists may be submitted to the Public Employment Relations Board for resolution before the dispute is submitted to a factfinding panel, as specified. The bill would also authorize each party to select a person to serve as its member of the factfinding panel.

~~Existing law regulates the wages, hours, and working conditions of any man, woman, and minor employed in any occupation, trade, or industry, whether compensation is measured by time, piece, or otherwise, except as specified. Existing law creates the Industrial Welfare Commission and authorizes it to adopt rules, regulations, and orders to ensure that employers comply with those provisions.~~

~~This bill would require the Director of Industrial Relations to study workforce and demographic changes in the workforce in California in the previous 20 years and projected workforce needs in the coming 30 years. The bill would require the director to create a report summarizing the findings of the study and submit that report to the Assembly Committee on Labor and Employment and the Senate Committee on Labor and Industrial Relations.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 3505.4 of the Government Code is
2 amended to read:
3 3505.4. (a) The employee organization may request that the
4 parties' differences be submitted to a factfinding panel not sooner
5 than 30 days, but not more than 45 days, following the appointment
6 or selection of a mediator pursuant to the parties' agreement to
7 mediate or a mediation process required by a public agency's local
8 rules. If the dispute was not submitted to mediation, an employee
9 organization may ~~request~~ *request, in writing*, that the *public agency*
10 *submit the parties' differences be submitted* to a factfinding panel
11 not later than 30 days following the date that either party provided
12 the other with a written notice of a declaration of impasse. Within
13 five days after receipt of the written request, each party shall select

1 a person to serve as its member of the factfinding panel. The Public
2 Employment Relations Board shall, within five days after the
3 selection of panel members by the parties, select a chairperson of
4 the factfinding panel.

5 *(b) Notwithstanding subdivision (a), if either party disputes that*
6 *a genuine impasse has been reached, the issue as to whether an*
7 *impasse exists may be submitted to the Public Employment*
8 *Relations Board for resolution. If the board determines that an*
9 *impasse existed as of the date of written notice of a declaration of*
10 *impasse and that the impasse has persisted through the date of the*
11 *employee organization's request for a factfinding panel, it shall,*
12 *within five working days of the receipt of a request, notify the*
13 *parties of its determination. This subdivision shall not apply to the*
14 *City and County of San Francisco.*

15 *(c) Within five days after receipt of the written request pursuant*
16 *to subdivision (a) or five days after receipt of the board's*
17 *determination that a genuine impasse has been reached and*
18 *persists pursuant to subdivision (b), each party shall select a*
19 *person to serve as its member of the factfinding panel. The board*
20 *shall, within five days after the selection of panel members by the*
21 *parties, select a chairperson of the factfinding panel.*

22 ~~(b)~~

23 *(d) Within five days after the board selects a chairperson of the*
24 *factfinding panel, the parties may mutually agree upon a person*
25 *to serve as chairperson in lieu of the person selected by the board.*

26 ~~(e)~~

27 *(e) The panel shall, within 10 days after its appointment, meet*
28 *with the parties or their representatives, either jointly or separately,*
29 *and may make inquiries and investigations, hold hearings, and*
30 *take any other steps it deems appropriate. For the purpose of the*
31 *hearings, investigations, and inquiries, the panel shall have the*
32 *power to issue subpoenas requiring the attendance and testimony*
33 *of witnesses and the production of evidence. Any state agency, as*
34 *defined in Section 11000, the California State University, or any*
35 *political subdivision of the state, including any board of education,*
36 *shall furnish the panel, upon its request, with all records, papers,*
37 *and information in their possession relating to any matter under*
38 *investigation by or in issue before the panel.*

39 ~~(d)~~

(f) In arriving at their findings and recommendations, the factfinders shall consider, weigh, and be guided by all the following criteria:

- (1) State and federal laws that are applicable to the employer.
- (2) Local rules, regulations, or ordinances.
- (3) Stipulations of the parties.
- (4) The interests and welfare of the public and the financial ability of the public agency.
- (5) Comparison of the wages, hours, and conditions of employment of the employees involved in the factfinding proceeding with the wages, hours, and conditions of employment of other employees performing similar services in comparable public agencies.
- (6) The consumer price index for goods and services, commonly known as the cost of living.
- (7) The overall compensation presently received by the employees, including direct wage compensation, vacations, holidays, and other excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment, and all other benefits received.
- (8) Any other facts, not confined to those specified in paragraphs (1) to (7), inclusive, ~~which~~ *that* are normally or traditionally taken into consideration in making the findings and recommendations.

~~(e)~~
(g) The procedural right of an employee organization to request a factfinding panel cannot be ~~expressly or voluntarily~~ waived.

(h) *For the purposes of this section, "impasse" means that the parties to a dispute over a matter within the scope of representation have reached a point in meeting and negotiating at which their difference in position is so substantial or prolonged that future meetings would be futile.*

(i) *Notwithstanding subdivisions (a) to (g), inclusive, the employee relations commissions established by, and in effect for, the County of Los Angeles and the City of Los Angeles pursuant to Section 3507 shall have the authority to maintain and amend existing rules and regulations providing for impasse resolution procedures and to issue determinations and orders as the employee relations commissions deem necessary, consistent with and pursuant to the policies of this chapter.*

~~SECTION 1. Section 55.5 is added to the Labor Code, to read:~~

1 ~~55.5. (a) The director shall study workforce and demographic~~
2 ~~changes in the workforce in California in the previous 20 years~~
3 ~~and projected workforce needs in the coming 30 years, including,~~
4 ~~but not limited to, the role of overtime pay. The director shall~~
5 ~~create a report summarizing the findings of the study and submit~~
6 ~~that report to the Assembly Committee on Labor and Employment~~
7 ~~and the Senate Committee on Labor and Industrial Relations.~~
8 ~~(b) The report required by subdivision (a) shall be submitted~~
9 ~~pursuant to Section 9795 of the Government Code.~~

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